

ATTACHMENT 29

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 CISCO SYSTEMS, INC. Case No.: 5:14-cv-05344-BLF (PSG)
6

7 Plaintiff,
8

9 v.
10

11 ARISTA NETWORKS, INC.
12

13 Defendants.
14

15 * HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY *

16 VIDEOTAPED DEPOSITION OF PHILLIP REMAKER

17 30(b) (6) FOR CISCO SYSTEMS, INC.

18 Palo Alto, California

19 Thursday, March 31, 2016

20 Volume 1

21 Reported by:

22 LESLIE JOHNSON

23 RPR, CSR No. 11451

24 Job No.: 2281749

25 PAGES 1 - 216

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<p>1 UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA 3 SAN JOSE DIVISION 4 5 CISCO SYSTEMS, INC. Case No.: 5:14-cv-05344-BLF(PSG) 6 Plaintiff, 7 v. 8 ARISTA NETWORKS, INC. 9 Defendants.</p> <hr/> <p>10 11 12 13 * HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY *</p> <p>14 VIDEOTAPED DEPOSITION OF PHILLIP REMAKER, Volume 1, taken on behalf of Defendant, at 601 California Avenue, Palo Alto, California, beginning at 9:30 a.m. and ending at 4:14 p.m., on Thursday, March 31, 2016, before LESLIE JOHNSON, Certified Shorthand Reporter No. 11451.</p> <p>15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 I N D E X 2 3 WITNESS EXAMINATION 4 PHILLIP REMAKER 5 30(b)(6) for CISCO SYSTEMS 6 Volume 1 7 BY MR. WONG 8 8 BY MR. NEUKOM 212 9 10 EXHIBITS 11 PHILLIP REMAKER, 30(b)(6) 12 NUMBER DESCRIPTION PAGE 13 Exhibit 429 Defendant Arista Network, Inc.'s 9 Notice of 30(b)(6) Deposition of Plaintiff Cisco Systems, Inc.; 33 pages 14 15 Exhibit 430 Amended Exhibit F Document Index; 11 40 pages 16 Exhibit 431 Amended Exhibit F; 44 pages 14 17 Exhibit 432 Binder labeled "Bates Does Cited 15 in Cisco Rog Exhibit F," Volume 1 of 2 18 Exhibit 433 Binder labeled "Bates Does Cited 15 in Cisco Rog Exhibit F," Volume 2 of 2 19 Exhibit 434 Binder labeled "Source Code Cited 15 in Cisco Rog Exhibit F," Volume 1 of 2 20 Exhibit 435 Binder labeled "Source Code Cited 15 in Cisco Rog Exhibit F," Volume 2 of 2 21 22 23 24 25</p>
<p>1 APPEARANCES: 2 3 FOR PLAINTIFF CISCO SYSTEMS, INC.: 4 QUINN EMANUEL URQUHART & SULLIVAN LLP 5 BY: JOHN (JAY) NEUKOM, ESQ. 6 50 California Street, 22nd Floor 7 San Francisco, California 94111 8 (415)875-6600 9 johnneukom@quinnemanuel.com 10 FOR DEFENDANT ARISTA NETWORKS, INC.: 11 KEKER & VAN NEST LLP 12 BY: RYAN WONG, ESQ. 13 633 Battery Street 14 San Francisco, California 94111 15 (415)391-5400 16 rwong@kvn.com 17 ALSO PRESENT: 18 SEAN GRANT, Videographer 19 20 21 22 23 24 25</p>	<p>1 EXHIBITS (Cont.) 2 PHILLIP REMAKER, 30(b)(6) 3 NUMBER DESCRIPTION PAGE 4 Exhibit 436 E-mail dated 1/12/99 from Phillip 40 Remaker to Carl Schaefer, et al.; Bates stamped CSI-CLI-00794351 to 95 5 Exhibit 437 E-mail dated 6/7/2003 from Shaubin 80 Xie; Bates stamped CSI-CLI-00783473 to 81 6 Exhibit 438 Parser-Police Manifesto, version 6; 82 10 pages 7 8 Exhibit 439 CLI Design and Review Guide; Bates 85 10 stamped CSI-CLI-02824651 to 719 11 Exhibit 440 E-mail thread, top e-mail dated 87 7/8/2005, from Jain Dhanendra; Bates 12 stamped CSI-CLI-00807444 to 68 13 Exhibit 441 Interrogatory No. 2 First Supplemental 98 Response - Exhibit C; 3 pages 14 15 Exhibit 442 Document entitled "Show Inventory 104 Command"; Bates stamped CSI-CLI-610102 to 610105 16 17 Exhibit 443 E-mail dated 12/6/2002 from Eric 114 Osborne; Bates stamped CSI-CLI-777457 to 459 18 19 Exhibit 444 Interrogatory No. 2 First Supplemental 122 Response - Exhibit B; 102 pages 20 Exhibit 445 E-mail dated 25 June 2002 from Ilse 151 Van Hoeck; Bates stamped CSI-CLI-00608702 to 703 21 22 Exhibit 446 E-mail dated 17 May 1999 from Liming 159 Wei; Bates stamped CSI-CLI-60866 23 24 25</p>

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<p>1 EXHIBITS (Cont.) 2 PHILLIP REMAKER, 30(b)(6) 3 NUMBER DESCRIPTION PAGE 4 Exhibit 447 Plaintiff Cisco Systems, Inc.'s Seventh 164 Supplemental Objections and Responses to Defendant Arista Network, Inc.'s Second Set of Interrogatories (No. 16); 50 pages 7 Exhibit 448 Plaintiff Cisco System, Inc.'s Fourth 167 Supplemental Objections and Responses to Defendant Arista Network, Inc's First Set of Interrogatories (2 and 5); 9 44 pages 10 Exhibit 449 Cisco's Response to Arista's 182 Interrogatory No. 16 Amended Exhibit 11 D1 (IOS Release 11.0); 28 pages 12 Exhibit 450 Exhibit E Exemplary Copying of Command 201 Responses; 27 pages 13 Exhibit 451 Writing Command Line Interfaces (CLI) 204 and CLI Output; Bates stamped CSI-CLI-02607986 to 8010 15 * * *</p>	<p>1 plaintiff. 2 THE VIDEOGRAPHER: Thank you. Will the 3 certified court reporter please swear in the 4 witness. 5 6 PHILLIP REMAKER, 7 having been first duly sworn, was examined 8 and testified as follows: 9 10 EXAMINATION 11 BY MR. WONG: 12 Q. Good morning, Mr. Remaker. 13 A. Good morning. 14 Q. Do you understand that you are testifying 15 under oath? 16 A. I understand. 17 Q. Okay. And I know we took your personal 18 deposition yesterday. Do you understand that the 19 general rules for conducting a deposition are also 20 applicable today? 21 A. Yes. 22 Q. Do you understand that you have been 23 designated by Plaintiff Cisco to provide corporate 24 testimony under Rule 30(b)(6) today? 25 A. Yes.</p>
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<p>1 Palo Alto, California, Thursday, March 31, 2016 2 9:30 a.m. 3 4 THE VIDEOGRAPHER: Good morning. We're on 5 the record. The time is 9:30 a.m. and the date is 6 March 31st, 2016. This begins the videotaped 7 deposition of Cisco Systems, Inc. pursuant to Rule 8 30(b)(6). My name is Sean Grant, here with our 9 court reporter, Leslie Johnson. We're here from 10 Veritext Legal Solutions at the request of counsel 11 for Defendant. This deposition is being held at 12 Wilson Sonsini in Palo Alto, California. 13 The caption of this case is Cisco Systems 14 Inc. versus Arista Networks, Inc., Case No. 15 5:14-cv-05344-BLF. 16 Please note that audio and video recording 17 will take place unless all parties have agreed to go 18 off the record. Microphones are sensitive and may 19 pick up whispers, private conversations or cellular 20 interference. 21 At this time, will counsel please identify 22 themselves and state whom they represent. 23 MR. WONG: Ryan Wong from Keker & Van Nest 24 for Defendant Arista Networks. 25 MR. NEUKOM: John Neukom for the</p>	<p>1 (Exhibit 429 marked for identification.) 2 MR. WONG: Let's mark this as the first 3 deposition exhibit. I believe we are on 429. 4 THE REPORTER: Correct. 5 BY MR. WONG: 6 Q. The court reporter has marked Exhibit 429, 7 a document that on its face says "Defendant Arista 8 Network, Inc.'s Notice of Rule 30(b)(6) Deposition 9 of Plaintiff Cisco Systems, Inc." 10 Mr. Remaker, do you recognize the document 11 marked as Exhibit 429? 12 MR. NEUKOM: It might help you to turn to 13 page 23. 14 MR. WONG: Thank you, Counsel. 15 MR. NEUKOM: Start with paragraph 78. 16 THE WITNESS: Yes, I recognize this 17 document. 18 BY MR. WONG: 19 Q. Do you understand that you have been 20 designated by Cisco to provide corporate testimony 21 for topic No. 78 that appears on page 23 of 22 Exhibit 429? 23 A. Yes. 24 Q. Do you understand that you've been 25 designated by Cisco to provide corporate testimony</p>
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1 **correct?**
2 A. For a subset of commands, it would seem
3 that was the case.
4 **Q. And when we're talking about a subset of**
5 **commands, which of the Cisco operating systems are**
6 **you referring to?**
7 MR. NEUKOM: Objection. Vague.
8 THE WITNESS: I don't know all of the
9 operating systems that were affected, but the one
10 alias that I know is discontinued was related to IOS
11 XR.
12 BY MR. WONG:
13 **Q. Was there a CLI reviewer alias for IOS?**
14 A. I don't know.
15 **Q. Was there a CLI review alias for NX-OS?**
16 A. I don't know.
17 **Q. What other flavors of IOS had a CLI**
18 **reviewer alias?**
19 A. I don't know.
20 **Q. Do you know for what period of time the**
21 **IOS XR CLI reviewer alias was being used?**
22 A. I don't know exactly.
23 **Q. Do you know one way or another whether a**
24 **CLI reviewer alias existed for Cisco IOS?**
25 A. I don't know for certain.

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[REDACTED]

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[REDACTED]

1 THE WITNESS: It is helpful to know the
 2 vocabulary and culture of the user to make a useful
 3 command.
 4 BY MR. WONG:
 5 Q. And in this paragraph, the Parser-Police
 6 Manifesto is stating that in the ATM community, the
 7 command "forward-peak-cell-rate-clpl" might be the
 8 only acceptable syntax for that command, correct?
 9 MR. NEUKOM: Objection. Misstates the
 10 document.
 11 THE WITNESS: That is -- you are quoting
 12 from the document?
 13 BY MR. WONG:
 14 Q. Yes.
 15 A. Okay. What was the question?
 16 Q. So in the paragraph that starts with
 17 No. 10 in the Parser-Police Manifesto marked as
 18 Exhibit 436, it's stating that the ATM community --
 19 in the ATM community, the command "forward-peak-
 20 cell-rate-clpl" might be the only acceptable command
 21 syntax. Correct?
 22 MR. NEUKOM: Objection. Misstates the
 23 document.
 24 THE WITNESS: Might be.
 25 ////

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<p>1 MR. NEUKOM: Objection. Calls for a legal 2 conclusion. And it is well beyond the scope of 3 topics for which this witness is here today. 4 THE WITNESS: I don't have an opinion 5 about that. 6 BY MR. WONG: 7 Q. Based upon your answer, I would ask you, what was the selection and creation process for whatever it is you would delineate, but if you don't know, then I can't ask you what the selection and creation process was behind the command mode. 8 Well, let me just ask you that. 9 Do you know what the selection or creation process was behind the "user exec" command mode? 10 A. I don't know. 11 Q. Do you know what the selection or creation process was behind the "privileged exec" command mode? 12 A. I do not know. 13 Q. Do you know what the selection or creation process was behind the "global configuration" command mode? 14 A. I do not know. 15 Q. Do you know what the selection or creation process was behind the "interface configuration"</p>	<p>1 prompts are fixed within any of Cisco's copyrighted works? 2 A. I would presume they are fixed in the source code. 3 Q. And do you know where any of the command modes are fixed in Cisco's copyrighted works? 4 A. I presume in the source code. 5 MR. NEUKOM: Objection. Beyond the scope. 6 And I'll take a standing objection for beyond the scope on the where are they fixed line of questions. 7 BY MR. WONG: 8 Q. Subject to questions by your counsel, I have no further questions of you, Mr. Remaker. 9 10 EXAMINATION 11 BY MR. NEUKOM: 12 Q. Mr. Remaker, can you explain for us how much time you spent preparing to testify as a corporate representative today? 13 A. Including the response to the interrogatory or just direct preparation? 14 Q. Just without -- without telling us what you did in detail, why don't you just tell us how much time you spent learning information about the origination of Cisco command line expressions prior</p>
<p>1 command mode? 2 A. I do not know. 3 Q. Just to cover our bases, do you know the selection or creation process behind the "user exec" command prompt? 4 A. I do not know. 5 Q. Do you know the selection or creation process behind the "privileged exec" command prompt? 6 A. I do not know. 7 Q. Do you know the selection or creation process behind the "global configuration" command prompt? 8 A. I do not know. 9 Q. Do you know the selection or creation process behind the "interface creation" command prompt? 10 A. I do not know. 11 Q. And do you know the selection or creation process behind the "interface creation" command prompt? 12 A. I do not know. 13 Q. And you understand that by "you" in those questions, I'm asking you as Cisco's corporate representative, correct? 14 A. Yes. 15 Q. And your answers are the same with that understanding, correct? 16 A. Yes. 17 Q. And do you know where any of these command</p>	<p>1 to being a corporate representative today? 2 A. I spent three days preparing with counsel. 3 And prior to that spent dozens of hours in preparing the responses to interrogatory No. 16 and interrogatory No. 19 with the team of very senior engineers. 4 Q. What documents did you review in preparation to serve as a corporate representative witness today, to talk about the historical origination of Cisco command line expressions? 5 A. I reviewed Exhibits 431, 432, 433, 434 and 435. I reviewed -- 6 Q. Let me interrupt you right there because you just listed off a number of exhibits. I take it those exhibits that you just referred to, each of them is a binder? 7 A. Exhibit 431 is an index to the four binders that are Exhibits 432 through 435. 8 Q. Okay. Given that when I asked you what documents you looked at to prepare to testify today, you identified exhibit numbers, I just want to make sure the record is clear, because some of those exhibits are compilations of numerous individual documents. 9 Can you, to the best of your ability,</p>

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<p>1 estimate for us the number of documents -- the 2 number of historical Cisco documents you reviewed to 3 prepare yourself to testify today as a corporate 4 representative?</p> <p>5 A. Easily 60 to 100 documents.</p> <p>6 Q. And can you describe by category what 7 sorts of documents you reviewed to prepare yourself 8 to come testify today about the historical 9 origination of Cisco command line expressions?</p> <p>10 A. Individual command specifications written 11 by engineers, source code, some e-mails, some 12 internal web pages, and the deposition of Kirk 13 Lougheed.</p> <p>14 Q. Do you believe there is anybody within 15 Cisco who knows more about the historical creation 16 of the 500-plus command line expressions identified 17 in Exhibit 431, other than you?</p> <p>18 A. No.</p> <p>19 MR. NEUKOM: Thanks very much.</p> <p>20 MR. WONG: Thank you.</p> <p>21 THE VIDEOGRAPHER: This concludes today's 22 videotaped deposition of Cisco Systems, Inc. 23 pursuant to Rule 30(b)(6).</p> <p>24 We're off the record at 4:14 p.m. 25 (TIME NOTED: 4:14 p.m.)</p>	<p>1 REPORTER'S CERTIFICATION 2 3 I, Leslie Johnson, a Certified Shorthand 4 Reporter of the State of California, do hereby certify: 5 That the foregoing proceedings were taken 6 before me at the time and place herein set forth; that 7 any witnesses in the foregoing proceedings, prior to 8 testifying, were administered an oath; that a record of 9 the proceedings was made by me using machine shorthand 10 which was thereafter transcribed under my direction; 11 that the foregoing transcript is a true record of the 12 testimony given. 13 Further, that if the foregoing pertains to 14 the original transcript of a deposition in a Federal 15 Case, before completion of the proceedings, review 16 of the transcript [] was [] was not requested. 17 I further certify I am neither financially interested in 18 the action nor a relative or employee of any attorney or 19 any party to this action. 20 IN WITNESS WHEREOF, I have this date 21 subscribed my name. 22 Dated: April 15, 2016 23 24 <%signature%> 25 LESLIE JOHNSON CSR No. 11451, RPR, CCRR</p>
<p>1 DECLARATION UNDER PENALTY OF PERJURY 2 3 I, PHILLIP REMAKER, the witness herein, 4 declare under penalty of perjury that I have read the 5 foregoing in its entirety; and that the testimony 6 contained therein, as corrected by me, is a true and 7 accurate transcription of my testimony elicited at said 8 time and place. 9 10 Executed this _____ day of _____ 2016, at 11 _____, _____. 12 (City) (State) 13 14 15 16 17 18 PHILLIP REMAKER 19 20 21 22 23 24 25</p>	<p>Page 214</p> <p>Page 216</p>

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